IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.143 OF 2005

Manohar Laxman Shelar ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

.....

Ms.Sharmila Kaushik for Petitioner.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 9, 2005.

P.C.

1. Heard Counsel for the parties.

2. This Petition, in my opinion, is ill-advised. The fact that Petitioner has already been released on Furlough and therefore, the Court should now direct the Respondents to release the Petitioner on Parole for a period of three months, is obviously an attempt to circumvent the legal requirement as provided by Rule 19 of The Prison

(Bombay Furlough & Parole) Rules 1959, which obligates that a prisoner may be released on Parole for a period not exceeding thirty days at a time by the competent Authority in cases of serious illness etc. If the Petitioner was aware that he would be required to undergo medical treatment on urgent basis while availing of the Furlough leave, he should have immediately applied to the Authority, which in turn, would have considered the request and passed appropriate orders within a reasonable time. Instead of following that procedure, the Petitioner has preferred to directly approach this Court, requiring this Court to issue writ to the Respondents to release the Petitioner on Parole as mentioned earlier.

3. The fact that the Petitioner has sought an appointment with the doctor for undergoing operation on 11th February 2005, cannot be the basis to circumvent the requirements of law as referred to above. The Petitioner shall, in the first place, surrender and apply for being released on Parole on the grounds available to him. Such application if made, will be considered by the

Respondents and finally disposed of within one week from the date of presentation. If the rules permit the Petitioner not to surrender while applying for Parole leave, when availing Furlough leave, it will be open to the Petitioner to take recourse to that remedy and if the competent Authority is satisfied that such option is available, may prefer to deal with the application on its own merits in accordance with law.

4. Petition disposed of on the above terms.

A.M.KHANWILKAR, J.